



MAINE REVENUE SERVICES SALES, FUEL & SPECIAL TAX DIVISION INSTRUCTIONAL BULLETIN NO. 42

ORIGINAL REGISTRATION OF VEHICLES – TAXABLE/EXEMPT

This bulletin is intended solely as advice to assist persons in determining, exercising or complying with their legal rights, duties or privileges. It contains general and specific information of interest as well as interpretations and determinations by Maine Revenue Services regarding issues commonly faced by your business. Portions of the Sales and Use Tax Law (Title 36, Part 3) referred to in this bulletin can be found in Attachment #1.

For the purposes of this Bulletin, **the term “vehicle” primarily means motor vehicle**, but also includes, depending on the context, aircraft, truck campers, trailers, and special mobile equipment other than farm tractors and lumber harvesting vehicles or loaders. The term “motor vehicle” means a self-propelled vehicle designed for the conveyance of passengers or property on the public highways (see 36 MRSA §1752(7), included in Attachment #1). Although “motor vehicle” also includes snowmobiles, all-terrain vehicles and watercraft, these vehicles are addressed in Instructional Bulletin No. 47.

The applicant for the original registration of the above vehicles must present a properly completed Dealer's Certificate (Form STMV-6) or Use Tax Certificate (Form STMV-6U) to the appropriate registering agency. Unless the purchase of the vehicle was exempt from taxation, the Dealer's Certificate is a receipt of sales tax paid to a dealer; whereas the Use Tax Certificate requires that the use tax be paid to the Secretary of State prior to the issuance of registration.

1. DEALER'S CERTIFICATE

Maine vehicle dealers must provide their customers with a Dealer's Certificate showing either that the sales tax due on the vehicle to be registered has been collected by the dealer, or that the sale of the vehicle is exempt or otherwise not subject to tax. A properly completed Dealer's Certificate must be submitted to the Secretary of State as a prerequisite to any original registration.

It is the responsibility of Maine vehicle dealers to collect and report the sales tax on all retail sales of vehicles made in this state, unless the purchaser qualifies for one of the tax exemptions discussed below. A Maine vehicle dealer does not have the option of allowing its customers to pay the use tax directly to the Secretary of State at the time of registration, and the dealer will be held accountable for the tax on all taxable retail sales.

2. USE TAX CERTIFICATE

a. Sales by Out-of-State Dealers. Vehicles purchased from dealers located outside the State of Maine for use in this State are subject to the use tax. An individual who registers such a vehicle in this State must complete a Use Tax Certificate and submit it to the Secretary of State, along with any use tax due, as a prerequisite to any original registration.

b. Casual Sales. Section 1764 of the Sales and Use Tax Law imposes a sales or use tax on casual sales of the following items:

Motor Vehicles;

Watercraft;

Truck campers;

Aircraft;

Trailers; and

Special Mobile Equipment (except farm tractors and lumber harvesting vehicles or loaders)

Any purchaser of these items at casual sale is required to file a Use Tax Certificate with the Secretary of State and pay any use tax due as a prerequisite to any original registration of the vehicle. (See Section 4 below for definitions).

c. Obtaining a Use Tax Certificate. A Use Tax Certificate may be obtained from the local excise tax collector, the Secretary of State, or the Maine Revenue Services Sales, Fuel & Special Tax Division.

3. TAX EXEMPTIONS

a. Sales for Resale. Under the Sales and Use Tax Law, a sale of a vehicle for resale (except for resale as a casual sale) is not a taxable transaction if no use is made of the vehicle other than demonstration or display. **However, registration of a vehicle is considered evidence that use other than demonstration or display is being made of the vehicle, and the registrant will be required to pay the use tax as a prerequisite to registration.**

b. Government Agencies and Exempt Organizations. Sales made directly to the Federal government, the State of Maine or any political subdivision of this State, or to any unincorporated agency of the above, are exempt from sales or use tax. In addition to counties, cities, towns or plantations in the State of Maine, this exemption covers sales to:

School districts in Maine;

Water, power, parking, sewer and other districts in Maine, established by legislative act as quasi-municipal corporations;

Village corporations; and

The Maine Turnpike Authority.

No exemption number is issued to the above agencies of government, but the name of the exempt agency and the signature of an authorized individual must be included on the Use Tax Certificate or Dealer's Certificate.

The Sales and Use Tax Law also provides exemptions for various organizations, including hospitals, certain schools, and regularly organized churches or houses of religious worship. To be entitled to purchase vehicles free of tax, the organization must have been issued a certificate of exemption by Maine Revenue Services. When a motor vehicle is sold to an exempt organization, the exemption permit number (a five-digit number prefixed by the letter 'E') must be entered in the appropriate box of the Dealers Certificate or Use Tax Certificate if an exemption is claimed. Sales to organizations that do not hold and provide an exemption certificate are deemed taxable.

Please note that this exemption does *not* apply to sales to clergy or to staff members or employees of exempt organizations.

c. Sale of Dual-Controlled Automobiles Used in Driver Training Programs. This exemption applies to sales by registered automobile dealers of automobiles for the purpose of equipping the same with dual controls and loaning or leasing them to public or private schools without consideration or for the consideration of not more than \$1 a year. Individuals registering such vehicles should so indicate in Box E of the Dealer's Certificate.

d. Sales to Amputee Veterans. This exemption applies to sales of automobiles to veterans who are granted free registration by the Secretary of State under the provisions of title 29-A, Section 523(1). Veterans qualifying for this exemption should complete the proper block on the Dealer's Certificate or Use Tax Certificate. There is no sales tax exemption for veterans generally, or for military personnel; the sale of a vehicle to a person in the military service is handled in exactly the same way as a sale to a civilian.

e. Sales of loaner vehicles to a new vehicle dealer. For purposes of this exemption, "loaner vehicle" means an automobile to be provided to the dealer's service customers for short-term use free of charge pursuant to the dealer's franchise (as defined in Title 10 §1171, sub-§6.) The use of such a vehicle provided to a service customer pursuant to a manufacturer's or dealer's warranty is also exempt from use tax pursuant to Title 36 §1760, sub-§21-A. However, the dealer/purchaser may be liable for use tax on a loaner vehicle that is used for another purpose, and tax must be remitted at the rate of 10% with respect to the use of these vehicles in certain circumstances. See Maine Revenue Services Bulletin 24 ("Vehicle Dealers") for more information.

f. Sales or leases the following items to nonresidents for immediate removal from Maine: motor vehicles, semi-trailers, aircraft, camper trailers, truck campers and watercraft. The sales tax does not apply to sales of the above vehicles purchased in Maine by a person that is not a resident of Maine, and intended to be driven or transported outside the State immediately upon delivery by the seller. If the purchaser is an individual, he or she must be domiciled (that is, be a legal resident of) a State other than Maine. If the purchaser is a corporation or other business entity, it must maintain a commercial domicile in (that is, be headquartered in) a state other than Maine.

The “motor vehicle” portion of this exception does not apply to automobiles rented for a period of less than one year. It also does not apply to ATVs and snowmobiles (but *all* sales of ATVs and snowmobiles to nonresident individuals are exempt; see Section 3(g) below and Instructional Bulletin No. 47.

At the time of the sale, the dealer and purchaser must complete Form ST-MV-33 (for motor vehicles, semi-trailers, aircraft, camper trailers and truck campers) or Form ST-P-19AE (for watercraft and all-terrain vehicles), certifying that the motor vehicle will be driven or transported outside the State immediately upon delivery. Copies of these affidavits are attached to this Bulletin. The dealer must then forward the appropriate affidavit to Maine Revenue Services along with the Dealer's Supplemental Sales Report on which the sale is reported as exempt.

g. Sales of all-terrain vehicles and snowmobiles to nonresident individuals. Sales tax does not apply to the sales of all-terrain vehicles and snowmobiles to *individuals* who are not Maine residents; the exemption does *not* apply to purchases by corporations or other business entities. See Instructional Bulletin No. 47 for more information.

h. Sale or lease of certain motor vehicles to qualifying resident businesses. Sales tax does not apply to the sale or lease of a motor vehicle (except an automobile rented for a period of less than one year, or an all-terrain vehicle or snowmobile) to a qualifying resident business if the vehicle is intended to be driven or transported outside the State of Maine immediately upon delivery and intended to be used exclusively in the qualifying resident business's out-of-state activities. If the vehicle is not used exclusively in the qualifying resident business's out-of-state business activities or is registered for use in Maine within 12 months of the date of purchase, the person seeking registration is liable for use tax on the basis of the original purchase price. See Maine Revenue Services Bulletin 24 (“Vehicle Dealers”) for more information.

i. Sales of automobiles for rental or lease. This exemption applies to automobiles only, whether rented or leased on a short-term or long-term basis. “Short-term” means a period of less than one year. “Long-term” means a period of 12 months or more.

j. Vehicles Used in Interstate Commerce. A vehicle that is placed in use by the purchaser as an instrumentality of interstate or foreign commerce within 30 days (90 days with good cause) after the sale and that is used by the purchaser not less than 80% of the time for the next two years as an instrumentality of interstate or foreign commerce may be registered by the owner without payment of use tax. This exemption is not limited to motor vehicles, but includes trailers and semi-trailers designed for the conveyance of property on public highways. **The exemption does not apply to vehicles that are leased or that are operating under someone else's ICC authority.** Dealers and purchasers must complete an affidavit (Form ST-MV-57A) at the time of the sale, and the dealer must file the affidavit with the Dealer's Supplemental Sales Report on which the sale is claimed to be exempt. (See Maine Revenue Services Rule No. 318 and Instruction Bulletin No. 34 for additional information.)

When the vehicle was purchased at casual sale or from a dealer outside this state, the purchaser must check Box 'E' and explain on the reverse side of the use tax certificate that the vehicle qualifies for exemption as an instrumentality of interstate or foreign commerce. Maine Revenue Services subsequently may request an affidavit of exemption and will make any further investigations necessary to verify the exemption.

4. TRADE-INS

a. Allowance for Trade-In. When one or more motor vehicle, watercraft, trailer, truck camper or piece of special mobile equipment are traded in toward the sale price of another item of the same kind (motor vehicle traded for a motor vehicle, watercraft for a watercraft, etc.), the sales or use tax is levied only upon the difference between the sale price of the purchased item and the trade-in value allowed for the item or items taken in trade, except for transactions between dealers involving exchange of the property from inventory.

However, when a motor vehicle is traded in toward a watercraft, or a camper trailer is traded in toward a motor home, or if any item of one kind is traded in toward an item of another kind, no credit for trade-in is allowed and the tax applies to the entire sales price. The statute provides an exception to this rule when a truck camper is taken in trade for a camper trailer or a camper trailer is taken in trade for a truck camper. No credit for trade-ins is allowed on leased vehicles (unless the lease is a lease in lieu of purchase). See Sections 4 and 5 of this bulletin for more information on leases and rentals.

This "like kind" trade-in credit allowance also applies to aircraft and chain saws; see Section 1765 of the Sales and Use Tax Law (included in Attachment #1).

If any other property is traded toward one of the items listed in Section 1765, tax applies to the entire sales price, including any allowance for trade-in. For example, if a refrigerator is traded in toward the purchase of a watercraft, no trade-in credit is allowed and the tax is based on the sale price of the watercraft.

b. Motor vehicles. In the case of transactions involving motor vehicles, the deduction based on allowance for trade-in in computing sales or use tax will apply only when both vehicles involved are self-propelled and are designed for the conveyance of passengers or property on the public highway. "Motor vehicles" includes cranes, shovels, cement mixers, and other equipment permanently attached to a motor vehicle, when sold as one unit. "Permanently attached" means that the components are physically joined together in a secure fashion and that they are not separated to be used independently.

5. SPECIAL SITUATIONS

a. Transfer of Equity. When a person takes possession of a motor vehicle from the original purchaser and assumes payment of the remaining loan balance, the transaction is considered a casual sale, and use tax is owed by the person assuming payments. Since insurance and finance charges are not subject to tax, the purchaser should obtain a "close-out" figure from the financial institution as a basis on which to pay the use tax.

b. Leases.

i. Short term rentals of automobiles. Persons in the business of leasing or renting automobiles on a short-term basis are not required to pay tax on the cost of automobiles purchased exclusively for that purpose, but are required to register with the State Tax Assessor and collect and report tax on the rental charges. This provision only applies to "automobiles" as defined in 1752(1-B). "Short-term basis" means a lease or rental period of less than one year. In the event that an automobile purchased tax-exempt under this provision is used for any purpose other than short-term rental, the purchaser/lessor must report and pay use tax based on the purchase price.

A Maine dealer that purchases automobiles for resale and leases an automobile on a short-term basis while holding it for resale is not required to pay a tax on its cost, but must collect and report tax on the rental charges. On other vehicles that do not qualify for the above provision, such as cargo vans, the dealer must either pay a tax based on its purchase price, or may, under certain conditions, collect and report tax on rental charges.

A Maine dealer should provide the applicant for registration of a leased vehicle with a Dealer's Certificate, certifying that the dealer/lessor has accounted for, or will account for, any tax due on the vehicle.

ii. Leases of other vehicles. All other applicants for registration of leased vehicles must prove that the tax is not owed, or pay any tax due, as a prerequisite to registration. The basis of the tax is the purchase price of the vehicle to the lessor. As with other applicants, if sales tax was paid to a Maine dealer, a Dealer's Certificate should be filed with the Secretary of State at the time of registration. If sales tax was not paid to a Maine dealer, a Use Tax Certificate should be filed and any tax due paid by the applicant as a prerequisite to registration.

Lessors are responsible for the payment of use tax on leased equipment in this State. Where the lessee cannot provide documentation to support payment of tax by the lessor, the lessee will be held responsible for the use tax. When an option to purchase a leased vehicle is exercised by the lessee, the transaction is a "sale". Tax is due on the option price paid by the lessee.

c. Sales by Estates. All sales of motor vehicles by personal representatives of estates are taxable. However, a motor vehicle received by a beneficiary of a decedent is not taxable, as the transaction is not in the nature of the sale.

d. Credit Allowed for Sales Tax Paid to Other Taxing Jurisdictions. Credit is allowed for any sales or use tax paid to other taxing jurisdictions against any Maine use tax that may be due on a vehicle. An applicant for original registration of a vehicle who claims credit for sales tax paid to another taxing jurisdiction must so indicate on a Use Tax Certificate and must provide the Secretary of State with a receipt of payment of such tax before credit will be allowed against the Maine use tax due on the transaction.

e. Prior Use Outside the State of Maine.

i. Automobiles. An automobile purchased and actually used by the present owner outside the State of Maine, where the owner was a bona fide resident of the other state at the time of purchase and employed or registered to vote there, is exempt from the Maine use tax. "Automobile" for purposes of this provision includes pick-up trucks and vans, but only when such vehicles are legally registered as automobiles. A pick-up truck or similar vehicle that is required to be issued a commercial registration, or which is actually so registered, is not an automobile for purposes of this exemption. "Automobile" for purposes of this provision does not include a motorcycle, moped, motor home, recreational vehicle, bus, truck, stock car, or antique auto registered as such.

ii. Motor Vehicles Other Than Automobiles. Except for an automobile as defined above, a vehicle purchased and used by the present owner outside the State is subject to Maine use tax as a prerequisite to registration for use in Maine unless it was registered and actually used elsewhere for more than twelve months before being brought into Maine. For purposes of this provision, "use" does not include storage, but means actual utilization of the vehicle for a purpose consistent with its design.

If the vehicle was registered by its present owner outside the state for a period of more than 12 months prior to Maine registration, the Secretary of State is not required to collect the use tax as a prerequisite to Maine registration. Proof of out-of-state registration for the vehicle must be entered on the appropriate line of the Use Tax Certificate.

Exemptions claimed on the basis of bona fide use outside the State of Maine may be audited or investigated by Maine Revenue Services. If Maine Revenue determines that the exemption was improperly claimed, assessment will be made of the appropriate use tax along with applicable interest and penalty charges.

6. REVIEW OF PURCHASE PRICES AND EXEMPTIONS

Purchase prices and exemptions claimed are subject to audit or investigation by Maine Revenue Services. If it is determined that the purchase price was understated or that an exemption was claimed improperly, as assessment will be made of the appropriate use tax along with applicable interest and penalty charges.

7. ADDITIONAL INFORMATION.

The information in this bulletin addresses some of the more common questions regarding the Sales and Use Tax Law faced by your business. It is not intended to be all inclusive. Requests for information on specific situations should be in writing, should contain full information as to the transaction in question and should be directed to:

**MAINE REVENUE SERVICES
SALES, FUEL & SPECIAL TAX DIVISION
P.O. BOX 1065
AUGUSTA, ME 04332-1065
TEL: (207) 624-9693
TTY: (888) 577-6690**

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ATTACHMENT #1
Excerpts from Maine Revised Statutes, Title 36

§1752. Definitions

The following words, terms and phrases when used in chapters 211 to 225 have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

1-A. Aircraft. "Aircraft" means any powered contrivance designed for navigation in the air except a rocket or missile.

1-B. Automobile. "Automobile" means a self-propelled 4-wheel motor vehicle designed primarily to carry passengers and not designed to run on tracks. "Automobile" includes a pickup truck or van with a registered gross vehicle weight of 6,000 pounds or less.

5-C. Loaner vehicle. "Loaner vehicle" means an automobile to be provided to a motor vehicle dealer's service customers for short-term use free of charge pursuant to the dealer's franchise, as defined in Title 10, section 11171, subsection 6.

7. Motor vehicle. "Motor vehicle" means any self-propelled vehicle designed for the conveyance of passengers or property on the public highways. "Motor vehicle" includes an all-terrain vehicle and a snowmobile as defined in Title 12, §13001.

7-A. Vehicle. "Vehicle" has the same meaning ascribed to that term by Title 29-A, section 101, subsection 91.

11. Retail sale. "Retail sale" means any sale of tangible personal property or a taxable service in the ordinary course of business.

A. "Retail sale" includes:

(1) Conditional sales, installment lease sales and any other transfer of tangible personal property when the title is retained as security for the payment of the purchase price and is intended to be transferred later;

(2) Sale of products for internal human consumption to a person for resale through vending machines when sold to a person more than 50% of whose gross receipts from the retail sale of tangible personal property are derived from sales through vending machines. The tax must be paid by the retailer to the State;

(3) A sale in the ordinary course of business by a retailer to a purchaser who is not engaged in selling that kind of tangible personal property or taxable service in the ordinary course of repeated and successive transactions of like character; and

(4) The sale or liquidation of a business or the sale of substantially all of the assets of a business, to the extent that the seller purchased the assets of the business for resale, lease or rental in the ordinary course of business, except when:

(a) The sale is to an affiliated entity and the transferee, or ultimate transferee in a series of transactions among affiliated entities, purchases the assets for resale, lease or rental in the ordinary course of business; or

(b) The sale is to a person that purchases the assets for resale, lease or rental in the ordinary course of business or that purchases the assets for transfer to an affiliate, directly or through a series of transactions among affiliated entities, for resale, lease or rental by the affiliate in the ordinary course of business.

For purposes of this subparagraph, "affiliate" or "affiliated" includes both direct and indirect affiliates.

B. "Retail sale" does not include:

- (1) Any casual sale;
- (2) Any sale by a personal representative in the settlement of an estate, unless the sale is made through a retailer, or unless the sale is made in the continuation or operation of a business;
- (3) The sale, to a person engaged in the business of renting automobiles, of automobiles, integral parts of automobiles or accessories to automobiles, for rental or for use in an automobile rented on a short-term basis;
- (4) The sale, to a person engaged in the business of renting video tapes and video equipment, of video tapes or video equipment for rental;
- (5) The sale, to a person engaged in the business of renting or leasing automobiles, of automobiles for rental or lease for one year or more; or
- (6) The sale, to a person engaged in the business of providing cable or satellite television services, of associated equipment for rental or lease to subscribers in conjunction with a sale of extended cable or extended satellite television services;
- (7) The sale, to a person engaged in the business of renting furniture, or audio media and audio equipment, of furniture, audio media or audio equipment for rental pursuant to a rental-purchase agreement as defined in Title 9-A, section 11-105;
- (8) The sale of loaner vehicles to a new vehicle dealer licensed as such pursuant to Title 29-A, section 953;
- (9) The sale of automobile repair parts used in the performance of repair services on an automobile pursuant to an extended service contract sold on or after September 20, 2007 that entitles the purchaser to specific benefits in the service of the automobile for a specific duration;
- (10) The sale, to a retailer that has been issued a resale certificate pursuant to section 1754-B, subsection 2-B or 2-C, of tangible personal property for resale in the form of tangible personal property, except resale as a casual sale;
- (11) The sale, to a retailer that has been issued a resale certificate pursuant to section 1754-B, subsection 2-B or 2-C, of a taxable service for resale, except resale as a casual sale;

(12) The sale, to a retailer that is not required to register under section 1754-B, of tangible personal property for resale outside the State in the form of tangible personal property, except resale as a casual sale; or

(13) The sale, to a retailer that is not required to register under section 1754-B, of a taxable service for resale outside the State, except resale as a casual sale.

14. Sale price. “Sale price” means the total amount of a retail sale valued in money, whether received in money or otherwise.

A. “Sale price” includes:

- (1) Any consideration for services that are a part of a retail sale; and
- (2) All receipts, cash, credits and property of any kind or nature and any amount for which credit is allowed by the seller to the purchaser, without any deduction on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid, losses or any other expenses.

B. “Sale price” does not include:

- (1) Discounts allowed and taken on sales;
- (2) Allowances in cash or by credit made upon the return of merchandise pursuant to warranty;
- (3) The price of property returned by customers, when the full price is refunded either in cash or by credit;
- (4) The price received for labor or services used in installing or applying or repairing the property sold, if separately charged or stated;
- (5) Any amount charged or collected, in lieu of a gratuity or tip, as a specifically stated service charge, when that amount is to be disbursed by a hotel, motel, restaurant or other eating establishment to its employees as wages;
- (6) The amount of any tax imposed by the United States on or with respect to retail sales, whether imposed upon the retailer or the consumer, except any manufacturers’, importers’, alcohol or tobacco excise tax;
- (7) The cost of transportation from the retailer’s place of business or other point from which shipment is made directly to the purchaser, provided that those charges are separately stated and the transportation occurs by means of common carrier, contract carrier or the United States mail;
- (8) The fee imposed by Title 10, section 1169, subsection 11;
- (9) The fee imposed by section 4832, subsection 1;
- (10) The lead-acid battery deposit imposed by Title 38, section 1604, subsection 2-B;

(11) Any amount charged or collected by a person engaged in the rental of living quarters as a forfeited room deposit or cancellation fee if the prospective occupant of the living quarters cancels the reservation on or before the scheduled date of arrival; or

(12) The premium on motor vehicle oil changes imposed by Title 10, section 1020, subsection 6.

14-B. Special mobile equipment. "Special mobile equipment" means any self-propelled vehicle not designed or used primarily for the transportation of persons or property that may be operated or moved only incidentally over the highways, including, but not limited to, road construction or maintenance machinery, farm tractors, lumber harvesting vehicles or loaders, ditch-digging apparatus, stone crushers, air compressors, power shovels, cranes, graders, rollers, well drillers and wood sawing equipment.

19-A. Trailer. "Trailer" means a vehicle without motive power and mounted on wheels that is designed to carry persons or property and to be drawn by a motor vehicle and not operated on tracks. "Trailer" includes a camper trailer as defined in section 1481, subsection 1-A.

20-A. Truck camper. "Truck camper" means a slide-in camper designed to be mounted on a truck body to provide temporary living quarters for recreational, camping, travel or other use.

22. Camper trailer. "Camper trailer" has the same meaning as in section 1481, but without any restriction on length.

24. Watercraft. "Watercraft" means any type of vessel, boat, canoe or craft designed for use as a means of transportation on water, other than a seaplane, including motors, electronic and mechanical equipment and other machinery, whether permanently or temporarily attached, which are customarily used in the operations of the watercraft.

§1755. No registration unless tax paid

Whenever tangible personal property is required by the laws of this State to be registered for use within the State, the applicant for registration, whether or not the owner, must either pay the sales tax or use tax or prove that the tax is not due. The applicant shall file a dealer's certificate or use tax certificate with the registering agency in a form prescribed by the State Tax Assessor reporting the name of the seller, the date of purchase, the sale price and other information pertinent to determination of tax liability. The registering agency shall forward the certificate promptly to the Bureau of Revenue Services.

§1760. Exemptions

Subject to the provisions of section 1760-C, no tax on sales, storage or use may be collected upon or in connection with:

21. Automobiles used in driver education program. Sales to automobile dealers, registered under section 1754-B, of automobiles for the purpose of equipping the same with dual controls and loaning or leasing the same to public or private secondary schools without

consideration or for a consideration of not more than \$1 a year, and used exclusively by such schools in driver education programs.

21-A. Certain loaner vehicles. The use of a loaner vehicle provided by a new vehicle dealer, as defined in Title 29-A, section 851, subsection 9, to a service customer pursuant to a manufacturer's or dealer's warranty.

22. Automobiles to amputee veterans. Sales of automobiles to veterans who are granted free registration of such vehicles by the Secretary of State under Title 29-A, section 523, subsection 1. Certificates of exemption or refunds of taxes paid must be granted under such rules or regulations as the State Tax Assessor may prescribe.

23-C. Certain vehicles purchased or leased by nonresidents. Sales or leases of the following vehicles to a person that is not a resident of this State, if the vehicle is intended to be driven or transported outside the State immediately upon delivery:

A. Motor vehicles, except:

- (1) Automobiles rented for a period of less than one year; and
- (2) All-terrain vehicles and snowmobiles as defined in Title 12, section 13001;

B. Semitrailers;

C. Aircraft; and

E. Camper trailers, including truck campers.

If the vehicles are registered for use in the State within 12 months of the date of purchase, the person seeking registration is liable for use tax on the basis of the original purchase price.

23-D. Certain vehicles purchased or leased by qualifying resident businesses. The sale or lease of a motor vehicle, except an automobile rented for a period of less than one year or an all-terrain vehicle or snowmobile as defined in Title 12, section 13001, to a qualifying resident business if the vehicle is intended to be driven or transported outside the State immediately upon delivery and intended to be used exclusively in the qualifying resident business's out-of-state business activities.

For purposes of this subsection, "qualifying resident business" includes any individual, association, society, club, general partnership, limited partnership, limited liability company, trust, estate, corporation or any other legal entity that:

A. Is organized under the laws of this State or has its principal place of business in this State; and

B. Conducts business activities from a fixed location or locations outside the State.

If the vehicle is not used exclusively in the qualifying resident business's out-of-state business activities or is registered for use in the State within 12 months of the date of purchase, the person seeking registration is liable for use tax on the basis of the original purchase price.

25. Watercraft sold to nonresidents. Sales of watercraft to a person that is not a resident of this State, when the watercraft is intended to be sailed or transported outside the State immediately upon delivery by the seller; sales to a person that is not a resident of this State, under contracts for the construction of a watercraft intended to be sailed or transported outside

the State immediately upon delivery by the seller, of materials to be incorporated in the watercraft; and sales to a person that is not a resident of this State for the repair, alteration, refitting, reconstruction, overhaul or restoration of a watercraft intended to be sailed or transported outside the State immediately upon delivery by the seller, of materials to be incorporated in the watercraft. Unless the watercraft is present in the State, for a purpose other than temporary storage, for more than 30 days during the 12-month period following its date of purchase or is registered in Maine without also being registered in another state or documented with a location in this State, within 12 months of the date of purchase, the purchaser is exempt from the use tax.

25-A. All-terrain vehicles. Sales of all-terrain vehicles, as defined in Title 12, section 13001, purchased by an individual who is not a resident of this State.

25-B. Snowmobiles. Sales of snowmobiles, as defined in Title 12, section 13001, subsection 25, purchased by an individual who is not a resident of this State.

41. Certain instrumentalities of interstate or foreign commerce. The sale of a vehicle, railroad rolling stock, aircraft or watercraft that is placed in use by the purchaser as an instrumentality of interstate or foreign commerce within 30 days after that sale and that is used by the purchaser not less than 80% of the time for the next 2 years as an instrumentality of interstate or foreign commerce. The State Tax Assessor may for good cause extend for not more than 60 days the time for placing the instrumentality in use in interstate or foreign commerce. For purposes of this subsection, property is "placed in use as an instrumentality of interstate or foreign commerce" by its carrying of, or providing the motive power for the carrying of, a bona fide payload in interstate or foreign commerce, or by being dispatched to a specific location at which it will be loaded upon arrival with, or will be used as motive power for the carrying of, a payload in interstate or foreign commerce. For purposes of this subsection, "bona fide payload" means a cargo of persons or property transported by a contract or common carrier for compensation that exceeds the direct cost of carrying that cargo or pursuant to a legal obligation to provide service as a public utility or a cargo of property transported in the reasonable conduct of the purchaser's own nontransportation business in interstate commerce.

45. Certain property purchased outside State. Sales of property purchased and used by the present owner outside the State:

A. If the property is an automobile, as defined in Title 29-A, section 101, subsection 7, and if the owner is an individual who was, at the time of purchase, a resident of the other state and either employed or registered to vote there;

A-1. If the property is a watercraft that is registered outside the State by an owner who is an individual who was a resident of another state at the time of purchase and the watercraft is present in the State not more than 30 days during the 12 months following its purchase for a purpose other than temporary storage;

A-2. If the property is a snowmobile or all-terrain vehicle as defined in Title 12, section 13001 and the purchaser is an individual who is not a resident of the State;

A-3. If the property is an aircraft not exempted under subsection 88 and the owner at the time of purchase was a resident of another state or tax jurisdiction and the aircraft is present in this State not more than 20 days during the 12 months

following its purchase, exclusive of days during which the aircraft is in this State for the purpose of undergoing "major alterations," "major repairs" or "preventive maintenance" as those terms are described in 14 Code of Federal Regulations, Appendix A to Part 43, as in effect on January 1, 2005. For the purposes of this paragraph, the location of an aircraft on the ground in the State at any time during a day is considered presence in the State for that entire day, and a day must be disregarded if at any time during that day the aircraft is used to provide free emergency or compassionate air transportation arranged by an incorporated nonprofit organization providing free air transportation in private aircraft by volunteer pilots so children and adults may access life-saving medical care; or

B. For more than 12 months in all other cases.

Property, other than automobiles, watercraft, snowmobiles, all-terrain vehicles and aircraft, that is required to be registered for use in this State does not qualify for this exemption unless it was registered by its present owner outside this State more than 12 months prior to its registration in this State. If property required to be registered for use in this State was not required to be registered for use outside this State, the owner must be able to document actual use of the property outside this State for more than 12 months prior to its registration in this State. For purposes of this subsection, "use" does not include storage but means actual use of the property for a purpose consistent with its design.

§1760-C. Exempt activities

The tax exemptions provided by section 1760 to a person based upon its charitable, nonprofit or other public purposes apply only if the property or service purchased is intended to be used by the person primarily in the activity identified by the particular exemption. The tax exemptions provided by section 1760 to a person based upon its charitable, nonprofit or other public purposes do not apply where title is held or taken by the person as security for any financing arrangement. Exemption certificates issued by the State Tax Assessor pursuant to section 1760 must identify the exempt activity and must state that the certificate may be used by the holder only when purchasing property or services intended to be used by the holder primarily in the exempt activity. When an otherwise qualifying person is engaged in both exempt and nonexempt activities, an exemption certificate may be issued to the person only if the person has established to the satisfaction of the assessor that the applicant has adequate accounting controls to limit the use of the certificate to exempt purchases.

§ 1763. Presumptions

The burden of proving that a transaction was not taxable is on the person charged with tax liability. The presumption that a sale was not for resale may be overcome during an audit or upon reconsideration if the seller proves that the purchaser was the holder of a currently valid resale certificate as provided in section 1754-B at the time of the sale or proves through other means that the property purchased was purchased for resale by the purchaser in the ordinary course of business. Notwithstanding section 1752, subsection 11, paragraph B, if the seller satisfies the seller's burden of proof, the sale is not considered a retail sale.

§1764. Tax against certain casual sales

The tax imposed by chapters 211 to 225 must be levied upon all casual rentals of living quarters in a hotel, rooming house or tourist or trailer camp and upon all casual sales involving the sale of trailers, truck campers, motor vehicles, special mobile equipment except farm tractors and lumber harvesting vehicles or loaders, watercraft or aircraft except those sold for resale at retail sale or to a corporation, partnership, limited liability company or limited liability partnership when the seller is the owner of a majority of the common stock of the corporation or of the ownership interests in the partnership, limited liability company or limited liability partnership. This section does not apply to the rental of living quarters rented for a total of fewer than 15 days in the calendar year, except that a person who owns and offers for rental more than one property in the State during the calendar year is liable for collecting sales tax with respect to the rental of each unit regardless of the number of days for which it is rented.

§1765. Trade-in credit

When one or more items in one of the following categories are traded in toward the sale price of another item in that same category, the tax imposed by this Part must be levied only upon the difference between the sale price of the purchased property and the trade-in allowance of the property taken in trade. This section does not apply to transactions between dealers involving exchange of the property from inventory:

- 1. Motor vehicles.** Motor vehicles;
- 3. Watercraft.** Watercraft;
- 4. Aircraft.** Aircraft;
- 6. Chain saws.** Chain saws;
- 7. Special mobile equipment.** Special mobile equipment;
- 8. Trailers.** Trailers; or
- 9. Truck campers.** Truck campers.

The trade-in credit allowed by this section is not available unless the items traded are in the same category, except that when a truck camper is taken in trade for a camper trailer or a camper trailer is taken in trade for a truck camper, the tax must be levied only upon the difference between the sale price of the purchased property and the trade-in allowance of the property taken in trade.

§1811. Sales tax

A tax is imposed on the value of all tangible personal property and taxable services sold at retail in this State. The rate of tax is 7% on the value of liquor sold in licensed establishments as defined in Title 28-A, section 2, subsection 15, in accordance with Title 28-A, chapter 43; 7% on the value of rental of living quarters in any hotel, rooming house, tourist or trailer camp; 10% on the value of rental for a period of less than one year of an automobile, including a loaner vehicle that is provided other than to a motor vehicle dealer's service customers pursuant to a manufacturer's or dealer's warranty; 7% on the value of prepared food; and 5% on the value of all other tangible personal property and taxable services. Value is measured by the sale price, except as otherwise provided. The value of rental for a period of less than one year of an

automobile is the total rental charged to the lessee and includes, but is not limited to, maintenance and service contracts, drop-off or pick-up fees, airport surcharges, mileage fees and any separately itemized charges on the rental agreement to recover the owner's estimated costs of the charges imposed by government authority for title fees, inspection fees, local excise tax and agent fees on all vehicles in its rental fleet registered in the State. All fees must be disclosed when an estimated quote is provided to the lessee.

The tax imposed upon the sale and distribution of gas, water or electricity, or telecommunications services, by any public utility, the rates for which sale and distribution are established by the Public Utilities Commission, must be added to the rates so established.

Rental or lease of an automobile for one year or more must be taxed at the time of the lease or rental transaction at 5% of the following: the total monthly lease payment multiplied by the number of payments in the lease or rental, the amount of equity involved in any trade-in and the value of any cash down payment. Collection and remittance of the tax is the responsibility of the person that negotiates the lease transaction with the lessee.

§1862. Taxes paid in other jurisdictions

The use tax provisions of chapters 211 to 225 shall not apply with respect to the use, storage or consumption in this State of purchases outside the State where the purchaser has paid a sales or use tax equal to or greater than the amount imposed by chapters 211 to 225 in another taxing jurisdiction, the proof of payment of the tax to be according to rules made by the State Tax Assessor. If the amount of tax paid in another taxing jurisdiction is not equal to or greater than the amount of tax imposed by chapters 211 to 225, then the purchaser shall pay to the State Tax Assessor an amount sufficient to make the tax paid in the other taxing jurisdiction and in this State equal to the amount imposed by chapters 211 to 225.

§1952-A. Payment of tax on vehicles and recreational vehicles

The tax imposed by this Part on the sale or use of any vehicle, snowmobile, all-terrain vehicle or watercraft must, except where the dealer has collected the tax in full, be paid by the purchaser or other person seeking registration of the vehicle, snowmobile, all-terrain vehicle or watercraft at the time and place of registration. In the case of vehicles, the tax must be collected by the Secretary of State and transmitted to the Treasurer of State as provided by Title 29-A, section 409. In the case of watercraft, snowmobiles and all-terrain vehicles, the tax must be collected by the Commissioner of Inland Fisheries and Wildlife and transmitted to the Treasurer of State as provided by Title 12, sections 13002 to 13005.

§1955-C. Assessment for vehicles

Certificates forwarded to the State Tax Assessor under Title 29-A, section 409, subsection 4 or Title 12, section 13003, must be treated as returns filed under this Title for purposes of section 141.